

# Town of Mashpee

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## May 13, 2015

### **AGENDA BOARD OF SELECTMEN WEDNESDAY, MAY 13, 2015**

**10:00 a.m. – Convene Meeting – Waquoit Meeting Room – Mashpee Town Hall**

#### **PLEDGE OF ALLEGIANCE**

#### **MINUTES**

#### **APPOINTMENTS & HEARINGS**

10 a.m. Town Counsel – Mashpee TV Contract/Transition Discussion

#### **COMMUNICATIONS & CORRESPONDENCE**

#### **OLD BUSINESS**

- Ballot Question #8 – Discussion Relative to Board's Position – **No Vote Required**

#### **NEW BUSINESS**

- Town Manager Selection Process – **No Vote Required**

#### **ADDITIONAL TOPICS**

(This space is reserved for topics that the Chairman did not reasonably anticipate would be discussed.)

#### **LIAISON REPORTS**

#### **EXECUTIVE SESSION**

Litigation Strategy Discussion re: Town vs SN Trust

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Selectman Taylor, Selectman Richardson, Selectman Sherman, Selectman Cahalane, Selectman Gottlieb  
Town Manager, Joyce Mason  
Town Counsel, Patrick Costello

Meeting Called to Order by Chairman Taylor at 10:00 a.m.  
Mashpee Town Hall, Waquoit Meeting Room

MINUTES: None at this time.

APPOINTMENTS & HEARINGS:

Mashpee TV Contract/Transition Discussion:

On May 12, 2015, a proposed agreement between the Town of Mashpee and Mashpee Community Media Center was forwarded to Town Counsel Patrick Costello for his review and to the Board of Selectmen for their consideration. Counsel began by recognizing the Board of Selectmen as the issuing authority, and indicated it is exclusively within their jurisdiction to retain or not retain an entity to operate Mashpee TV. He stated the Board has a secured interest in any assets purchased with funds provided by the Town through Comcast. He further stated, should the current contract be allowed to expire on May 21, 2015, all equipment and responsibilities relative to the operation of Mashpee TV would fall to the Board of Selectmen. The Board would not assume the existing private lease for the space currently occupied by Mashpee TV, nor would it be responsible for any private contracts between Mashpee TV and its employees.

Town Counsel indicated the Board of Selectmen also has the right to extend the contract with Mashpee TV, and recommended the criteria for successful transition of Channel 18 be specifically determined in that new contract. He further suggested the Board's interests would be more tightly secured by agreeing to a one-year extension versus a three-year extension. Terms of the contract could be such that the Board would have the option to renew for an additional two years, upon successful transition of Channel 18, as determined solely by the Board.

While it appeared the language of the new agreement proposed a one-year contract with the option to extend for years two and three, Selectmen Gottlieb's recollection of the Board's position was that the Board supported a three-year contract with a clear performance measure at the end of year one. Board members disagreed on this point.

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Town Counsel read from Section 6-11 of the proposed agreement, which gives Mashpee TV thirty (30) days after execution of the agreement to deliver a list of measures they intend to undertake to upgrade Channel 18. He indicated that, although Section 6-9 of the proposed contract articulates what the expectation is regarding meeting coverage, the criteria for upgrading Channel 18 is not specified. The Board and Counsel were in agreement that the language of the proposed contract should be adjusted to reflect a clear measureable performance criteria, and determination of whether that criteria has been met should be at the sole discretion of the Board.

Selectmen Richardson stated that he approves of the new contract language, and recommended moving forward. Selectman Gottlieb reminded the Board that the proposed contract stipulates the appointment of a Board of Selectmen designee to the Mashpee TV Executive Committee, and recommended Wayne Taylor.

Town Counsel re-affirmed the Board's desire to tighten the language on Section 2 and to extend the term of the agreement for one year. If, after one year, the Board is satisfied that Mashpee TV has fully met the terms of the agreement and the criteria for transition of Channel 18, the contract would automatically extend for an additional two years. Selectmen Gottlieb referred the Board to Section 16 of the contract, the termination provision, and

pointed out the strong rights of the Board in the event of non-performance by Mashpee TV.

**Motion made by Selectmen Gottlieb to enter into a contract agreement with Mashpee TV in accordance with the draft contract presently before us, provided Town Counsel adjust Section 2 to indicate a one-year extension, with years two and three to be extended upon completion of the transition of Channel 18, at the sole discretion of the Board of Selectmen, and that the Board designate, effective Monday or upon execution of the contract, Wayne Taylor as the Board of Selectmen's representative designee to the Executive Board of Mashpee TV, pursuant to the new contract.**

**Motion seconded by Selectman Richardson.**

**After a brief discussion, Selectman Gottlieb amended his motion to reflect that, instead of 3% for the first year, Mashpee TV would receive 3.5% of Comcast revenues for all three years.**

**Motion seconded by Selectman Richardson.**

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Town Counsel stated, should the Board vote to approve the new agreement subject to the terms proposed in the motion, it is a corporate act of the Board and, after the upcoming transition of the Board, the three/four remaining members would represent a quorum and are authorized to execute the document. Selectman Taylor stated he is of the opinion the contract should be executed by both parties by May 21, 2015.

**Selectmen Gottlieb further amended his motion to reflect that execution of the document by the Board be contingent upon the document being fully executed by the close of business on May 20, 2015.**

**Motion seconded by Selectman Richardson.**

**VOTE: Unanimous. 5-0**

**Roll Call Vote:**

Selectman Taylor, yes      Selectman Richardson, yes  
Selectman Sherman, yes      Selectman Cahalane, yes  
Selectman Gottlieb, yes

**COMMUNICATIONS & CORRESPONDENCE**

Selectman Taylor made his farewell remarks and conveyed thanks to the Board of Selectmen and Town Manager Joyce Mason.

**OLD BUSINESS**

**Ballot Question #8 – Discussion Relative to Board's Position:**

Selectman Gottlieb reminded everyone present that at the December 1, 2014 Board of Selectmen meeting, it was voted unanimously that the Town remain the entity responsible for wastewater management. Selectman Gottlieb wished to state publicly that the passage of Ballot Question #8 is not consistent with the Board's position and, therefore, not in the best interest of the citizens of the community.

Selectman Gottlieb expressed concerns about handing over what would likely be the largest DPW project in the history of the community to the Water District, when it lacks the checks/balances of the Finance Committee, and when it is uncertain whether the Water District will accept the framework of the Town's plan. Selectman Gottlieb addressed concerns about 2 ½ overrides and limitations should the Water District take control of wastewater

management. He stated that, although  
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the Water District can appropriate money without the constraints of 2 ½, it operates in relative anonymity and lacks public engagement in their process. He expressed concern that appropriate steps may not be taken to garner public understanding and support for the expenditure, and anticipated that residents will be confronted with an increase in their taxes without having the opportunity to weigh-in. He recommended that wastewater management be presented to the voters in the context of the Town's overall spending plan.

Selectman Gottlieb addressed concerns by the Board members about the Town's AAA bond rating. His opinion being that the Town is a better credit risk, and it would be less costly for residents if the Town, not the Water District, did the borrowing. It was pointed out that the Town has already taken efficient steps to improve water quality through other methods, and the Board of Selectman was in agreement that the Town is in the best position to inform and educate the public about wastewater management.

NEW BUSINESS

Town Manager Selection Process:

Selectman Gottlieb presented an update on the Town Manager Search Committee process. Under the Town Charter, within 90 days of the date the Committee was formed, it must present 3-5 finalists to the Board of Selectmen. The Committee intends to hold a meeting on Wednesday, May 20, 2015, where a vote would determine the pool of final candidates, with those names being presented to the Board of Selectmen at a special meeting held the same evening. The Board has twenty (20) days from the announcement of the finalists to interview, evaluate, and select a preferred candidate with whom they wish to engage in contract negotiations.

Nine applicants in total were screened by the Committee, and Selectman Gottlieb stated that the Board of Selectman would be presented with a strong pool from which to make their selection. To ensure each candidate is given the same level of energy and engagement, he discouraged the Board from conducting more than 2-3 interviews in one day. The Collins Center recommended 75 minutes for each interview, and the Screening Committee further recommended that those interviews take place over a two-day period. Selectman Gottlieb also reminded the Board that interviews and the subsequent discussion of the merits of each candidate are both conducted in open session.

At the conclusion of the Town Manager Selection Process discussion, Charles Gasior, Vice-Chairman of the Finance Committee, addressed the Board with a  
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question as to whether they, as a total group, had made a recommendation for or against Ballot Question #8. Town Counsel responded that individual Board members are free to state their views and, should it so choose, the Board as whole are free to adopt a uniform position; however, the Board as an entity is not compelled to take a public position.

Selectman Gottlieb stated that the Board had previously voted on and unanimously approved a motion regarding wastewater management which read "the Board of Selectman determined, due to recent changes in the regulations of wastewater management options and the adoption of an adaptive management approach to wastewater in Mashpee, it is now in the best interest of the citizens of Mashpee that the Town remain the entity responsible for waste management and, to that end, the Board of Selectman no longer support transfer of wastewater management responsibility to the Mashpee Water District."

ADDITIONAL TOPICS

None at this time.

LIAISON REPORTS

None at this time.

Adjournment:

**Motion made by Selectmen Sherman at 11:03 to adjourn Open Session and enter into Executive Session of the meeting, from which they will not return to Open Session, for the purpose of discussing litigation strategy.**

**Motion seconded by Selectman Richardson.**

**VOTE: Unanimous. 5-0.**

**Roll Call Vote:**

**Selectman Taylor, yes      Selectman Richardson, yes  
Selectman Sherman, yes      Selectman Cahalane, yes  
Selectman Gottlieb, yes**

Respectfully Submitted,

Christine A. Willander  
Administrative Secretary  
To the Town Manager/Selectmen